



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 9, 1998

Ms. Barbara G. Heptig  
Assistant City Attorney  
City of Arlington  
P.O. Box 231  
Arlington, Texas 76004-0231

OR98-2134

Dear Ms. Heptig:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 117862.

The Arlington Police Department (the "department"), which your office represents, received a request for "all police reports related to the disturbance at Hurricane Harbor that occurred roughly between 9 p.m. May 22 and 2 a.m. May 23." In response to the request, you submit to this office for review Exhibits B and C which you assert are responsive. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Office of the Attorney General will raise section 552.101 on behalf of a governmental body when necessary to protect third-party interests. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987). Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Release of some of the requested information is governed by section 58.007 of the Family Code.

Section 552.101 encompasses confidentiality provisions such as Family Code section 58.007. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. The relevant language of section 58.007(c) reads as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child may not be disclosed to the public and shall be:

- (1) kept separate from adult files and records; and
- (2) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Some of the submitted documents involve juvenile conduct that occurred after September 1, 1997. It does not appear that any of the exceptions in section 58.007 apply; therefore, some of the requested documents are confidential pursuant to section 58.007(c) of the Family Code. The department must withhold the tagged information from disclosure under section 552.101 of the Government Code.

As for the remaining information, we consider whether section 552.108, the "law enforcement," exception protects the information. Section 552.108(a)(1) provides an exception from disclosure for information that is held by a law enforcement agency or prosecutor and that deals with the detection, investigation, or prosecution of crime, when release of such information would interfere with the detection, investigation, or prosecution of crime. Generally, a governmental body can demonstrate that release of information about a case would interfere with the prosecution of crime by showing that there is a pending criminal prosecution in the case. *See* Gov't Code §§ 552.108(a)(1), (b)(1), .301(b)(1); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14<sup>th</sup> dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); *see* Open Records Decision No. 216 (1978) at 3 (release of information during pending criminal case would interfere with prosecution of crime and law enforcement interests).

You state that the requested information relates to an active criminal investigation and prosecution. As the requested information relates to a pending criminal investigation, we find that release of most of the requested information would interfere with the detection, investigation, or prosecution of crime. However, we note that "basic information about an arrested person, an arrest, or a crime" is not excepted from required public disclosure. Gov't Code § 552.108(c). Basic information is the type of information that is considered to be front page offense report information even if this information is not actually located on the front page of the offense report. *See generally Houston Chronicle*, 531 S.W.2d at 177; Open Records Decision No. 127 (1976). Front page offense report information includes a detailed description of the offense, which is required to be disclosed under *Houston Chronicle*. *See* Open Records Decision No. 127 (1976).<sup>1</sup> Thus, except for basic information including a detailed description of the offense, the remaining information in Exhibits B and C may be withheld from disclosure under section 552.108(a)(1). Although section 552.108(a)(1) authorizes you to withhold this information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. *See* Gov't Code § 552.007.

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<sup>1</sup>We note that in Open Records Decision No. 127 (1976), this office concluded that "identification and description of witnesses" and "Officer's speculation as to suspect's guilt" is information which is protected by section 552.108 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Sam Haddad". The signature is fluid and cursive, with a large, stylized initial "S" that loops around the first part of the name.

Sam Haddad  
Assistant Attorney General  
Open Records Division

SH/mjc

Ref.: ID# 117862

Enclosures: Submitted documents

cc: Mr. C. D. Giddens  
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(w/o enclosures)